

to the recommended findings and proposed decision and a supporting brief or statement.

(3) The Administrator reviews the recommended decision and, within 60 days of its issuance, issues his or her own decision.

(c) *Effect of Administrator's decision.* The decision of the Administrator under this section is the final decision of the Secretary and constitutes "final agency action" within the meaning of 5 U.S.C. 704 and a "final determination" within the meaning of section 1116(a)(3) of the Act and § 430.38. The Administrator's decision is promptly served on all parties and amici.

§ 430.104 Decisions that affect FFP.

(a) *Scope of decisions.* If the Administrator concludes that withholding of FFP is necessary because a State is out of compliance with Federal requirements, in accordance with § 430.35, the decision also specifies—

(1) Whether no further payments will be made to the State or whether payments will be limited to parts of the program not affected by the non-compliance; and

(2) The effective date of the decision to withhold.

(b) *Consultation.* The Administrator may ask the parties for recommendations or briefs or may hold conferences of the parties on the question of further payments to the State.

(c) *Effective date of decision.* The effective date of a decision to withhold Federal funds will not be earlier than the date of the Administrator's decision and will not be later than the first day of the next calendar quarter. The provisions of this section may not be waived under § 430.64.

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